

## FULL TEXTS OF MEASURES APPEARING ON THE NOVEMBER 4, 2008 GENERAL ELECTION BALLOT

The ballot for the General Election scheduled for November 4, 2008, will include the following constitutional and statutory measures. Each measure is being submitted to the voters for their approval or rejection. The following is the full text of each measure. The full text of each measure will not appear on the November 4, 2008 General Election ballot. The official ballot language is language that summarizes and represents the substance of each measure.

### CONSTITUTIONAL MEASURE NO. 1

House Concurrent Resolution No. 3045

(Representatives Weiler, Boehning, Kasper, Skarphol, Thoreson)  
(Senator Stenehjelm)

A concurrent resolution to create and enact a new section to article X of the Constitution of North Dakota, relating to establishment and use of a permanent oil tax trust fund; and to provide an effective date.

#### STATEMENT OF INTENT

This measure establishes a permanent oil tax trust fund and imposes limitations on use of moneys in the fund.

#### BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed new section to article X of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2008, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1.** A new section to article X of the Constitution of North Dakota is created and enacted as follows:

All revenue deposited in the general fund during a biennium derived from taxes imposed on oil and gas at the time of production or extraction which exceeds one hundred million dollars must be transferred by the state treasurer to a special fund in the state treasury known as the permanent oil tax trust fund. Beginning in 2011, at the beginning of each biennium immediately following a biennium in which revenue from taxes imposed on oil and gas was deposited in the permanent oil tax trust fund, the state treasurer shall adjust the dollar threshold amount as determined under this section for transfers to the permanent oil tax trust fund by applying to that amount the rate of change since the beginning of the previous biennium in the consumer price index for all urban consumers, all items, United States city average, or any successor index, as calculated by the United States department of labor, bureau of labor statistics. The state treasurer shall transfer interest earnings of the permanent oil tax trust fund to the general fund at the end of each fiscal year. The principal of the permanent oil tax trust fund may not be expended except upon a vote of three-fourths of the members elected to each house of the legislative assembly and not more than twenty percent of the principal may be expended during any biennium.

**SECTION 2. EFFECTIVE DATE.** If approved by the voters, this measure becomes effective on July 1, 2009.

### INITIATED STATUTORY MEASURE NO. 2

#### BALLOT TITLE

This initiated measure would amend sections 57-38-30 and 57-38-30.3 of the North Dakota Century Code by lowering the state

corporate income tax rates by fifteen percent and the adjusted state individual income tax rates by fifty percent for tax years beginning after December 31, 2008.

#### FULL TEXT OF THE MEASURE

**IF THE MATERIAL IS UNDERScoreD, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERScoreD OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.**

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:**

**57-38-30. Imposition and rate of tax on corporations.** A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first three thousand dollars of taxable income, at the rate of ~~two and six tenths percent~~ two and twenty-one hundredths percent.  
b. On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of ~~four and one tenth percent~~ three and forty-eight hundredths percent.  
c. On all taxable income above eight thousand dollars and not in excess of twenty thousand dollars, at the rate of ~~five and six tenths percent~~ four and seventy-six hundredths percent.  
d. On all taxable income above twenty thousand dollars and not in excess of thirty thousand dollars, at the rate of ~~six and four tenths percent~~ five and forty-four hundredths percent.  
e. On all taxable income above thirty thousand dollars, at the rate of ~~six and one half percent~~ five and fifty-two hundredths percent.
2. A Corporation that has paid North Dakota Alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

**SECTION 2. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has

not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

2.

a. Single, other than head of household or surviving spouse.

|                                       |  |
|---------------------------------------|--|
| If North Dakota taxable income is:    | The tax is equal to:   |
| Not over \$27,050                     | <u>2.10%</u> <u>1.05%</u>  |
| Over \$27,050 but not over \$65,550   | <del>\$568.05</del> <u>\$284.03</u> plus <del>3.92%</del> <u>1.96%</u> of amount over \$27,050       |
| Over \$65,550 but not over \$136,750  | <del>\$2,077.25</del> <u>\$1,038.63</u> plus <del>4.34%</del> <u>2.17%</u> of amount over \$65,550   |
| Over \$136,750 but not over \$297,350 | <del>\$5,467.33</del> <u>\$2,583.67</u> plus <del>5.04%</del> <u>2.52%</u> of amount over \$136,750  |
| Over \$297,350                        | <del>\$13,261.57</del> <u>\$6,630.79</u> plus <del>5.54%</del> <u>2.77%</u> of amount over \$297,350 |

b. Married filing jointly and surviving spouse.

|                                       |  |
|---------------------------------------|--|
| If North Dakota taxable income is:    | The tax is equal to:   |
| Not over \$45,200                     | <u>2.10%</u> <u>1.05%</u>  |
| Over \$45,200 but not over \$109,250  | <del>\$949.29</del> <u>\$474.60</u> plus <del>3.92%</del> <u>1.96%</u> of amount over \$45,200       |
| Over \$109,250 but not over \$166,500 | <del>\$3,459.96</del> <u>\$1,729.98</u> plus <del>4.34%</del> <u>2.17%</u> of amount over \$109,250  |
| Over \$166,500 but not over \$297,350 | <del>\$5,944.64</del> <u>\$2,972.31</u> plus <del>5.04%</del> <u>2.52%</u> of amount over \$166,500  |
| Over \$297,350                        | <del>\$12,539.45</del> <u>\$6,269.73</u> plus <del>5.54%</del> <u>2.77%</u> of amount over \$297,350 |

c. Married filing separately

|                                      |   |
|--------------------------------------|---|
| If North Dakota taxable income is:   | The tax is equal to:  |
| Not over \$22,600                    | <u>2.10%</u> <u>1.05%</u>   |
| Over \$22,600 but not over \$54,625  | <del>\$474.60</del> <u>\$237.30</u> plus <del>3.92%</del> <u>1.96%</u> of amount over \$22,600      |
| Over \$54,625 but not over \$83,250  | <del>\$1,729.98</del> <u>\$864.99</u> plus <del>4.34%</del> <u>2.17%</u> of amount over \$54,625    |
| Over \$83,250 but not over \$148,675 | <del>\$2,972.31</del> <u>\$1,486.16</u> plus <del>5.04%</del> <u>2.52%</u> of amount over \$83,250  |
| Over \$148,675                       | <del>\$6,269.73</del> <u>\$3,134.87</u> plus <del>5.54%</del> <u>2.77%</u> of amount over \$148,675 |

d. Head of household.

|                                       |  |
|---------------------------------------|--|
| If North Dakota taxable income is:    | The tax is equal to:   |
| Not over \$36,250                     | <u>2.10%</u> <u>1.05%</u>  |
| Over \$36,250 but not over \$93,650   | <del>\$761.25</del> <u>\$380.63</u> plus <del>3.92%</del> <u>1.96%</u> of amount over \$36,250       |
| Over \$93,650 but not over \$151,650  | <del>\$3,044.33</del> <u>\$1,505.67</u> plus <del>4.34%</del> <u>2.17%</u> of amount over \$93,650   |
| Over \$151,650 but not over \$297,350 | <del>\$5,528.53</del> <u>\$2,764.27</u> plus <del>5.04%</del> <u>2.77%</u> of amount over \$151,650  |
| Over \$297,350                        | <del>\$12,871.84</del> <u>\$6,435.91</u> plus <del>5.54%</del> <u>2.77%</u> of amount over \$297,350 |

e. Estates and trusts.

|                                    |   |
|------------------------------------|---|
| If North Dakota taxable income is: | The tax is equal to:  |
| Not over \$1,800                   | <u>2.10%</u> <u>1.05%</u>   |
| Over \$1,800 but not over \$4,250  | <del>\$37.80</del> <u>\$18.90</u> plus <del>3.92%</del> <u>1.96%</u> of amount over \$1,800   |
| Over \$4,250 but not over \$6,500  | <del>\$133.84</del> <u>\$66.92</u> plus <del>4.34%</del> <u>2.17%</u> of amount over \$4,250  |
| Over \$6,500 but not over \$8,900  | <del>\$234.49</del> <u>\$115.75</u> plus <del>5.54%</del> <u>2.52%</u> of amount over \$6,500 |
| Over \$8,900                       | <del>\$352.45</del> <u>\$176.23</u> plus <del>5.54%</del> <u>2.77%</u> of amount over \$8,900 |

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

g. For taxable years beginning after December 31, 2001, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States Treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same used for adjusting the income brackets for federal income tax purposes.

**SECTION 3. APPLICATION.** The income brackets in subsection 1 of section 57-38-30.3 as provided in section 2 of this Act are the statutory bracket amounts as enacted for taxable year 2001 and do not reflect cost-of-living adjustments that have been made since that time under subdivision g of subsection 1 of section 57-38-30.3. For the purpose of this Act, the tax commissioner shall determine income brackets for each taxable year by applying the appropriate cost-of-living adjustment determined under subdivision g of subsection 1 of section 57-38-30.3 for each taxable year after taxable year 2001.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31 ", 2008.

## INITIATED STATUTORY MEASURE NO. 3

### BALLOT TITLE

This initiated measure would add seven new sections to the North Dakota Century Code and amend N.D.C.C. section 54-27-25 to establish a tobacco prevention and control advisory committee and an executive committee; develop and fund a comprehensive statewide tobacco prevention and control plan; and create a tobacco prevention and control trust fund to receive tobacco settlement dollars to be administered by the executive committee.

### FULL TEXT OF THE MEASURE

**IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERSCORED OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.**

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:**

**SECTION 1.** Seven new sections to the North Dakota Century Code are hereby created and enacted as follows:

**Definitions.** As used in this Act:

1. "Advisory committee" is the nine-member tobacco prevention and control advisory committee responsible to develop the comprehensive plan.
2. "Comprehensive plan" means a comprehensive statewide tobacco prevention and control program that is consistent with the centers for disease control best practices for comprehensive tobacco prevention and control programs and does not duplicate the work of the community health grant program created in chapter 23-28.
3. "Executive committee" means the three-member committee selected by the advisory committee and charged with implementation and administration of the comprehensive plan.
4. "Tobacco prevention and control fund." consists of all principal and interest of the tobacco prevention and control trust fund established by section 2 of this Act.

#### **Tobacco Prevention and Control Advisory Committee - Membership - Terms - Duties - Removal.**

1. The advisory board consists of nine North Dakota residents appointed by the governor for three year terms as follows:

- a. A practicing respiratory therapist familiar with tobacco related diseases;
- b. Four non-state employees that have demonstrated expertise in tobacco prevention and control;
- c. A practicing medical doctor familiar with tobacco related diseases;
- d. A practicing nurse familiar with tobacco related diseases;
- e. A youth between the ages of 14 and 21;

- f. A member of the public with a previously demonstrated interest in fostering tobacco prevention and control.

2. The governor shall select the youth and public member independently; the respiratory therapist from a list of three nominations provided by the North Dakota society for respiratory care; the four tobacco control experts from a list of two nominations per member provided by the North Dakota public health association's tobacco control section; the medical doctor from a list of three nominations provided by the North Dakota medical association; and the nurse from a list of three nominations provided by the North Dakota nurses association. The governor must make the appointments within three weeks of receiving the respective list of nominees. If the governor fails to make an appointment within three weeks the association that provided the list of nominees shall select the committee member. In the initial appointments for the advisory committee, the governor shall stagger the terms of the members so that the terms of three members expire each fiscal year and that three members are appointed each year by June 30. Accordingly, the governor's initial appointments must, in some instances, be for terms less than 3 years. The governor shall fill vacancies for the unexpired term as provided in this section.

3. No individual may serve more than two consecutive three-year terms; however terms of less than three years are not considered in determining an individual's eligibility for reappointment.

4. A quorum of the advisory committee is required to conduct business, but the advisory committee may conduct a meeting with less than a quorum present. A quorum is a majority of the members of the committee. Any action taken requires a vote of the majority of the members present at the meeting.

5. The advisory board shall:

- a. Select the executive committee;
- b. Fix the compensation of the advisory committee and the executive committee; however compensation may not exceed compensation allowed to the legislature. Advisory and executive committee members are entitled to reimbursement for mileage and expenses as provided for state officers in addition to any compensation provided;
- c. Develop the initial comprehensive statewide tobacco prevention and control program that includes support for cessation interventions, community and youth interventions, and health communication;
- d. Evaluate the effectiveness of the plan and its implementation and, prior to April 1 of each year, propose any necessary changes to the plan to the executive committee.

6. The governor may remove any member of the advisory committee for malfeasance in office, but the advisory committee is not subject to section 54-07-01.2.

7. No nomination to, or member of, the advisory committee shall have any past or current affiliation with the tobacco industry or any industry, contractor, agent, or organization that engages in the manufacturing, marketing, distributing, sale, or promotion of tobacco or tobacco related products.

**Executive Committee.** The executive committee of the advisory committee consists of three individuals selected by the advisory committee from its membership. The term of each member is for three years. The initial terms of the members must be staggered so that one member serves a three-year term, one member serves a two-year term and one member serves a one-year term. The determination of initial terms shall be by lot. No individual may serve more than two consecutive three-year terms; however terms of less than three years are not considered in determining an individual's eligibility for reappointment. The advisory committee shall fill vacancies for the unexpired term. An individual selected to serve on the executive committee is no longer eligible to serve if they are not a member of the advisory committee. The executive committee is responsible for the implementation and administration of the comprehensive plan, including the appropriateness of

expenditures to implement the comprehensive plan. The executive committee may seek the counsel and advice of the advisory committee in implementing the plan, but the executive committee is the final decision maker.

**Powers of the Executive Committee.** To implement the purpose of this Act and, in addition to any other authority granted elsewhere in this Act, to support its efforts and implement the comprehensive plan the executive committee may employ staff and fix their compensation, accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money, lease property, provide direction to the state investment board for investment of the tobacco prevention and control fund, and take any action that any private individual, corporation, or limited liability company lawfully may do except as restricted by the provisions of this Act.

**Development of the Comprehensive Plan.** The advisory committee must develop the initial comprehensive plan within 180 days of the initial meeting of the advisory committee. The comprehensive plan must be funded at a level equal to or greater than the centers for disease control recommended funding level. Funding for the comprehensive plan must supplement and may not supplant any funding that in the absence of this Act would be or has been provided for the community health trust fund or other health initiatives.

**Conflict of Interest.** No member of the advisory committee or of the executive committee who has a direct and substantial personal or pecuniary interest in a matter before them may vote or take any action on that matter.

**Audit.** At least once a biennium, the executive committee shall provide for an independent review of the comprehensive plan to assure that the comprehensive plan is consistent with the centers for disease control best practices. The executive committee shall report the results of that review to the governor and to the state health officer on or before September 1 in each odd numbered year.

**SECTION 2. Amendment.** Section 54-27-25 of the 2005 supplement to the North Dakota Century Code is hereby amended and reenacted as follows:

**54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.**

1. There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under ~~sections subsection IX (c)(1) (payments) and X4 (calculation and disbursement of payments)~~ of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in *State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc.* All ~~Except as provided in subsection 2,~~ moneys received by the state ~~pursuant to the judgment and all moneys received by the state for enforcement of the judgment under subsection IX(c)(l)~~ must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund. The principal and interest of the fund must be allocated as follows:

- 1- a. Transfers to a community health trust fund to be administered by the state department of health. The state department of health may use funds as appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection must equal ten percent of total annual transfers from the tobacco settlement trust fund of which a minimum of eighty percent must be used for tobacco prevention and control.
- 2- b. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal forty-five percent

of total annual transfers from the tobacco settlement trust fund.

- 3- c. Transfers to the water development trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal forty-five percent of the total annual transfers from the tobacco settlement trust fund.

2. There is created in the state treasury a tobacco prevention and control trust fund. The fund consists of the tobacco settlement dollars obtained by the state under section 1X (c) (2) of the agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in *State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc.* Interest earned on the fund must be credited to the fund and deposited in the fund. Moneys received into the fund are to be administered by the executive committee for the purpose of creating and implementing the comprehensive plan. If in any biennium, the tobacco prevention and control trust fund does not have adequate dollars to fund a comprehensive plan, the treasurer shall transfer money from the water development trust fund to the tobacco prevention and control trust fund in an amount equal to the amount determined necessary by the executive committee to fund a comprehensive plan.

3. Transfers to the funds under this section must be made within thirty days of receipt by the ~~tobacco settlement trust fund state.~~

## INITIATED STATUTORY MEASURE NO. 4

### BALLOT TITLE

This initiated measure would add two new sections to title 65 of the North Dakota Century Code providing for the appointment by the Governor of the director for the Workforce Safety and Insurance agency, the placement of its employees into the state personnel system, and for the appointment of independent administrative law judges to conduct hearings and make final decisions.

### FULL TEXT OF THE MEASURE

**IF MATERIAL IS UNDERScoreD, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERScoreD OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.**

**BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:**

**SECTION 1.** Two new sections to Title 65 of the North Dakota Century Code are created and enacted as follows:

Workforce Safety and Insurance - Executive director - Governor to Appoint - Personnel. Notwithstanding any other provisions of law, the governor shall appoint a director of workforce safety and insurance who shall serve at the pleasure of the governor. The governor shall set the compensation and prescribe the duties of the director. Each employee of workforce safety and insurance must occupy a position in the classified service and must be subject to the provisions of the state personnel system provided in chapter 54-44.3.

Appointment of administrative law judges - Hearings. Notwithstanding any other provisions of law, workforce safety and insurance shall contract with the office of administrative hearings for the designation of administrative law judges who shall conduct evidentiary hearings and issue final findings of fact, conclusions of law and orders. Rehearings must be conducted as hearings under chapter 28-32.